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46069 7590 08/14/2009 F. CHAU & ASSOCIATES, LLC 130 WOODBURY ROAD WOODBURY, NY 11797			EXAMINER SHINGLES, KRISTIE D	
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte PONANI GOPALAKRISHNAN, STEPHANE H. MAES,
and GANESH N. RAMASWAMY

Appeal 2008-005173
Application 09/886,306
Technology Center 2400

Decided: August 14, 2009

Before JOSEPH L. DIXON, HOWARD B. BLANKENSHIP, and
ST. JOHN COURTENAY III, *Administrative Patent Judges*.

BLANKENSHIP, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

This is an appeal under 35 U.S.C. § 134(a) from the Examiner's final rejection of claims 1-7 and 9-34. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

Invention

Appellants' invention relates to a system and method for intelligent caching and network management. A contextual system determines settings based on contextual information and determines services and devices available to the user. A predictor receives the contextual information, the settings, the services and devices available and predicts the needs of the user to make resources available to the user in accordance with the predictions.

(Abstract.)

Representative Claim

9. A system for intelligent caching and network management, comprising:

a data source of event and time information representing a user's schedule;

a location database including resource information about network services, application services, devices, hardware resources and software resources that are available for the user at one or more locations;

a predictor which receives the event and time information and the resource information to predict a location of the user and additional resources needed by the user at the predicted location such that the additional resources are transferred to the user at the predicted location when and where the additional resources are needed.

Prior Art

Wieczorek	US 6,125,278	Sep. 26, 2000
Takagi	US 6,243,755 B1	Jun. 5, 2001
Rankin	US 6,879,838 B2	Apr. 12, 2005

Examiner's Rejections/Claims

Claims 1-4, 6, 7, 9-12, 14-20, 22-29, and 31-34 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Rankin and Wieczorek.

Claims 5, 13, 21, and 30 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Rankin, Wieczorek, and Takagi.

Claim 8 has been canceled.

Claim Groupings

Based on Appellants' arguments in the Appeal Brief, we will decide the appeal on the basis of claims 1, 9, and 10. *See* 37 C.F.R. § 41.37(c)(1)(vii).

FINDINGS OF FACT

Rankin

Rankin teaches a mobile distributed location based information service system. Mobile communications device 100 (Fig. 2) communicates with location resource server 103. Mobile communications device 100 includes location determination system 117 (e.g., a GPS unit) for determination of the device's current geographical location. Location resource server 103 may provide an electronic map or database of location based information services to device 100, based on the device's determined location. Col. 3, l. 61 - col. 4, l. 51.

Information server 104 (Fig. 1) can hold additional information about a particular location that cannot be completely stored in location resource server 103. Col. 6, ll. 19-25.

Wieczorek

Wieczorek teaches a radio communication system in which a subscriber unit 401 (Fig. 4) transmits its current location. The system uses the unit location history and geographical map information to obtain a predicted future location for the subscriber unit. The system allocates communication resources in anticipation of expected resource requirements of the subscriber unit at the predicted further locations. Col. 3, ll. 50-67.

PRINCIPLES OF LAW

During prosecution before the USPTO, claims are to be given their broadest reasonable interpretation, and the scope of a claim cannot be narrowed by reading disclosed limitations into the claim. *See In re Morris*, 127 F.3d 1048, 1054 (Fed. Cir. 1997); *In re Zletz*, 893 F.2d 319, 321 (Fed. Cir. 1989); *In re Prater*, 415 F.2d 1393, 1404-05 (CCPA 1969).

Our reviewing court has repeatedly warned against confining the claims to specific embodiments described in the specification. *Phillips v. AWH Corp.*, 415 F.3d 1303, 1323 (Fed. Cir. 2005) (en banc).

“[W]hen a patent ‘simply arranges old elements with each performing the same function it had been known to perform’ and yields no more than one would expect from such an arrangement, the combination is obvious.” *KSR Int’l Co. v. Teleflex, Inc.*, 550 U.S. 398, 417 (2007) (quoting *Sakraida v. Ag Pro, Inc.*, 425 U.S. 273, 282 (1976)). The operative question is

“whether the improvement is more than the predictable use of prior art elements according to their established functions.” *Id.*

ANALYSIS

I. Claim 9

Appellants contend that the Examiner errs in rejecting claim 9 because Wieczorek does not teach or suggest a predictor that receives event and time information, the event and time information representing a user’s schedule to predict the location of the user. According to Appellants, Wieczorek does not teach or suggest predicting the location of the user based on time and event information representing the user’s schedule because the prediction in the reference is based on the location of the subscriber unit during actual use of the unit, for the purpose of providing resources needed by the unit while it is in operation. (App. Br. 5-6.)

However, the Examiner finds that each of Rankin and Wieczorek teaches predicting the location of the user based on time and event information representing the user’s schedule. (Ans. 7.) Rankin teaches maintaining a profile to predict future user movement, such that information for expected locations may be downloaded in advance. (*Id.*, citing Rankin, col. 8, ll. 35-46.) Wieczorek teaches, as noted in the Findings of Fact *supra*, predicting the future location for a subscriber unit, so as to allocate communication resources in anticipation of expected resource requirements of the subscriber unit at the predicted further locations.

We fail to see how Appellants’ invention of claim 9 might distinguish over the prediction of future location during “actual use” of the subscriber unit in Wieczorek. In view of Appellants’ failure to provide some evidence

of how “event and time information representing a user’s schedule” might be limited to something other than “actual use” of a unit, we agree with the Examiner that the time and (current) location information used for location prediction in Wieczorek is event and time information that “represents” a user’s schedule within the meaning of claim 9. Moreover, the location determination process in Rankin (Fig. 5; col. 7, l. 55 - col. 8, l. 34) uses event and time information that “represents” a user’s schedule, which takes into account where a user is (current schedule) and where a user is predicted to be (future schedule).

II. Claim 1

Appellants contend that the rejection of claim 1 errs because the combination of Rankin and Wieczorek does not disclose a universal messaging system coupled to the predictor, wherein the universal messaging system provides message services to the user based on predictions by the predictor of current or future locations, activities or needs of a user. Appellants submit that the Final Rejection failed to address that language of claim 1. (App. Br. 6-7.)

The Examiner finds that each of Rankin and Wieczorek teaches a “universal messaging system” consistent with the requirements of instant claim 1. (Ans. 8.) Appellants elected not to file a Reply Brief in response to any perceived new positions by the Examiner in the Answer. We are not persuaded of error in the Examiner’s findings with respect to how the references teach the “universal messaging system” of claim 1.

III. Claim 10

Claim 10, which depends from claim 9, recites that the invention further comprises a user preference profile which includes user preferences employed by the predictor to predict the location of the user and resources needed at the location. Appellants content that neither Rankin nor Wieczorek teaches a “user preference profile” as claimed. Appellants submit that Rankin’s user preferences operate as a mere “filter” on information. (App. Br. 7-8.)

The Examiner finds that Rankin teaches accessing a user’s preferences to inform the user of services of interest at a particular location. (Ans. 9.) Further, the Examiner finds that Rankin teaches using a user’s profile to predict future movement and preloading maps for a predicted location. (*Id.*)

We observe that claim 10 is not limited to the user (e.g., manually) entering information for the “user preference profile.” The “long term profile” discussed at column 8, lines 35 through 46 of Rankin can be considered a “user preference profile,” consistent with the Examiner’s findings. Further, the user preferences described at column 4, line 51 *et seq.* of Rankin do not merely “filter” information as alleged by Appellants. The reference expressly teaches that the user preferences “may include” geographical information “which provides a filter to eliminate any unnecessary information,” such as information about a resource outside of the current geographic region of the mobile communications device.

IV. Conclusion

We have considered claims representative of the arguments submitted by Appellants in response to the § 103(a) rejections. As we are not persuaded that any claim has been rejected in error, we sustain the Examiner's rejections.

DECISION

The rejection of claims 1-4, 6, 7, 9-12, 14-20, 22-29, and 31-34 under 35 U.S.C. § 103(a) as being unpatentable over Rankin and Wieczorek is affirmed.

The rejection of claims 5, 13, 21, and 30 under 35 U.S.C. § 103(a) as being unpatentable over Rankin, Wieczorek, and Takagi is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a).

AFFIRMED

msc

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